IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 4355 of 2006()

CRA.124/2002 of SESSIONS COURT, KALPETTA.
CC.374/2000 of J.F.C.M. COURT-I, SULTHAN BATHERY.

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REVN. PETITIONER/APPELLANT/ACCUSED:

V.K. SREEJITH, AGED 38 YEARS,
S/O. KESAVA PANICKKAR,
VALAVAYAL P.O., IRULAM, SULTHAN BATHERY.

BY ADV. SRI.A.T.ANILKUMAR

RESPONDENTS/RESPONDENTS/STATE & COMPLAINANT:

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1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. K.P. RAMESH BABU,
S/O. GOPALA PANICKAR,
'ANALA', COLLEGE ROAD,
SULTHAN BATHERY.

R1 BY PUBLIC PROSECUTOR ADV. SHRI C.K. SURESH.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 06/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

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CRL. R.P. 4355 OF 2006

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Dated this the 6th December , 2006

O R D E R

The petitioner was convicted for the offence under section 138 of the Negotiable Instruments Act and he was sentenced to undergo simple imprisonment for a period of three months. He was also directed to pay compensation of Rs. 1,15,000/- to the complainant under section 357(3) of the Code of Criminal Procedure. The petitioner challenged the conviction and sentence in appeal. The appellate court confirmed the conviction and the substantive sentence of imprisonment passed by the trial court . However, the appellate court reduced the compensation amount to Rs. 1,00,000/- and to that extent the appeal was allowed.

2. The only submission made by the counsel for the petitioner is that the petitioner may be afforded a reasonable time to pay compensation amount to the first respondent/ complainant and that the sentence of imprisonment may be reduced to imprisonment till the rising of the court in the light of the decision reported in **Anilkumar vs. Shammy** (**2002 (3) KLT**

852). The delay in filing the revision was condoned and I have taken a view therein that it is not necessary to issue notice to the second respondent/ complainant since no order, prejudicial to his interest, is being passed. Taking into account the facts and circumstances of the case and the submissions made by the counsel for the petitioner, I am inclined to grant one month's time to the petitioner to pay the entire compensation amount as directed to be paid by the appellate court and also in addition, a sum of Rs. 10,000/- to the complainant . Thus the petitioner has to pay a total amount of Rs.1,10,000/- as compensation to the complainant within a period of one month from today. I am also of the view that the sentence of imprisonment for a period of three months can be reduced to imprisonment till the rising of the court.

In the result, the Crl. Revision Petition is allowed in part and it is disposed of in the following manner:

i) The conviction of the petitioner under section 138 of the Negotiable Instruments Act is confirmed.

ii) The sentence of imprisonment for a period of three months is modified and reduced to imprisonment till the rising of the court.

iii) The petitioner shall pay a sum of Rs. 1,10,000/- to the complainant as compensation within a period of one month from today. In default of payment of compensation, the petitioner shall undergo simple imprisonment for a period of three months. However, the petitioner is granted one month's time to deposit the compensation amount before the trial court.

Since no notice was issued to the second respondent/ complainant , the Registry shall send a certified copy of this judgment to the second respondent/complainant at the expense of the revision petitioner before issuing any certified copy to the revision petitioner.

K.T. SANKARAN,
JUDGE.

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K.T. SANKARAN, J.

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CRL. M.A. No. 10973 OF 2006

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Dated this the 6th December , 2006

O R D E R

This is an application to condone the delay of 1107 days in filing the revision. Normally notice should go to the respondents before condoning the delay. Learned counsel for the petitioner submits that the only prayer of the petitioner is to grant a reasonable time to pay compensation amount and also that the sentence of imprisonment may be reduced to imprisonment till the rising of the court. The offence is under section 138 of the Negotiable Instruments Act . The trial court sentenced the petitioner to undergo simple imprisonment for a period of three months and to pay compensation of Rs. 1,15,000/-. The appellate court confirmed the conviction and sentence of imprisonment, but reduced the compensation

amount to Rs. 1,00,000/-. The compensation amount is not paid. If compensation amount is paid, the complainant would be benefitted. On the other hand, if the revision is dismissed on the ground of delay, the petitioner has to go to jail and no benefit would be derived by the complainant. Therefore, I am of the view that no notice need be issued to the second respondent/complainant, causing inconvenience to him to come to this court. Though the reasons stated for condonation of delay are not convincing, since the petitioner is prepared to deposit the whole amount as directed by the appellate court , I am inclined to condone the delay .

Number the Crl. Revision Petition

K.T. SANKARAN,
JUDGE.

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